

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|                                 |   |                            |
|---------------------------------|---|----------------------------|
| KAAVO INC.                      | ) |                            |
|                                 | ) |                            |
| Plaintiff,                      | ) |                            |
|                                 | ) | Civil Action No. _____     |
| v.                              | ) |                            |
|                                 | ) | <b>JURY TRIAL DEMANDED</b> |
| INTERNATIONAL BUSINESS MACHINES | ) |                            |
| CORPORATION                     | ) |                            |
|                                 | ) |                            |
| Defendant.                      | ) |                            |
| _____                           | ) |                            |

**COMPLAINT**

For its Complaint, Plaintiff Kaavo Inc. ("Kaavo"), by and through the undersigned counsel, alleges as follows:

**THE PARTIES**

1. Kaavo is a Delaware corporation with a place of business located at 9600 Great Hills Trail, Suite 150W, Austin, Texas 78759.
2. Defendant International Business Machines Corporation is a New York corporation with, upon information and belief, a place of business located at New Orchard Road, Armonk, New York 10504.
3. Upon information and belief, Defendant has registered with the Delaware Secretary of State to conduct business in Delaware.

**JURISDICTION AND VENUE**

4. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*
5. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.

6. Upon information and belief, Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in this district.

7. Venue is proper in this district pursuant to §§ 1391(b), (c) and 1400(b).

### **THE PATENT-IN-SUIT**

8. On September 18, 2012, United States Patent No. 8,271,974 (the "'974 patent"), entitled "Cloud Computing Lifecycle Management for N-tier Applications" was duly and lawfully issued by the U.S. Patent and Trademark Office. A true and correct copy of the '974 patent is attached hereto as Exhibit A.

9. Kaavo is the assignee and owner of the right, title and interest in and to the '974 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

### **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,271,974**

10. Kaavo repeats and realleges the allegations of paragraphs 1 through 9 as if fully set forth herein.

11. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant has infringed and continue to infringe the '974 patent by making, using, importing, offering for sale, and/or selling methods and systems for management of a cloud computing environment for use by a software application, including, but not limited to IBM PureSystems, IBM SmartCloud and IBM Workload Deployer, which are covered by one or more claims of the '974 patent.

12. Kaavo is entitled to recover from Defendant the damages sustained by Kaavo as result of Defendant's infringement of the '974 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

**JURY DEMAND**

Kaavo hereby demands a trial by jury on all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, Kaavo requests that this Court enter judgment against Defendant as follows:

- A. An adjudication that Defendant has infringed the '974 patent;
- B. An award of damages to be paid by Defendant adequate to compensate Kaavo for Defendant's past infringement of the '974 patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Kaavo's reasonable attorneys' fees; and
- D. An award to Kaavo of such further relief at law or in equity as the Court deems just and proper.

Dated: March 19, 2014

STAMOULIS & WEINBLATT LLC

/s/ Richard C. Weinblatt

Stamatios Stamoulis #4606

stamoulis@swdelaw.com

Richard C. Weinblatt #5080

weinblatt@swdelaw.com

Two Fox Point Centre

6 Denny Road, Suite 307

Wilmington, DE 19809

Telephone: (302) 999-1540

*Attorneys for Plaintiff*

*Kaavo Inc.*